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Harbin Construction, Inc. and Local 1234, United Brotherhood of Carpenters and Joiners of America, AFL-CIO. Case 7-CA-36978

December 24, 1996

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS BROWNING
AND FOX

On August 18, 1995, the National Labor Relations Board issued a Decision and Order,¹ *inter alia*, directing Harbin Construction, Inc., its officers, agents, successors, and assigns, to make its unit employees whole by making all delinquent contributions to certain union fringe benefit trust funds that had not been made since September 14, 1994, in violation of the National Labor Relations Act. On March 25, 1996, the United States Court of Appeals for the Sixth Circuit entered its judgment enforcing the Board's Order.

A controversy having arisen over the amounts due under the Board's Order, on September 13, 1996, the Regional Director for Region 7 issued a compliance specification and notice of hearing alleging the amounts due various union funds under the Board's Order, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent failed to file an answer.

By letter dated October 3, 1996, the Region advised the Respondent that no answer to the compliance specification had been received and that unless an appropriate answer was filed by October 17, 1996, a Motion for Default Judgment would be sought. The Respondent filed no answer.

On November 19, 1996, the General Counsel filed with the Board a Motion to Transfer Case to the Board and for Default Summary Judgment, with exhibits attached. On November 20, 1996, the Board issued an order transferring the proceeding to the Board and a

¹ 318 NLRB No. 42 (Aug. 18, 1995) (not reported in Board volumes).

Notice to Show Cause why the motion should not be granted. The Respondent again filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on the Motion for Summary Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Summary Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment.

Accordingly, we conclude that the amounts due the union funds are as stated in the compliance specification and we will order payment by the Respondent of those amounts.

ORDER

The National Labor Relations Board orders that the Respondent, Harbin Construction, Inc., Detroit, Michigan, its officers, agents, successors, and assigns, shall make whole its unit employees by paying the following amounts to the listed union funds, plus liquidated damages as provided by the parties collective-bargaining agreement:²

² See *Merryweather Optical Co.*, 240 NLRB 1213 (1979).

Health and Welfare Fund	\$38,408.16
Pension Fund	22,151.56
Local 1234 Supplemental Pension Fund	1,567.68
Vacation Fund	11,757.60
Apprenticeship Fund	2,037.98
Health & Safety Fund	156.77
Steward Fund	1,567.68
Industry Advancement Fund	3,135.36
Dues Fund	5,586.77

TOTAL:	\$86,369.56
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Dated, Washington, D.C. December 24, 1996

_____ William B. Gould IV,	Chairman
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_____ Margaret A. Browning,	Member
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_____ Sarah M. Fox,	Member
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(SEAL) NATIONAL LABOR RELATIONS BOARD